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Report to the Colorado General Assembly

**Labor Laws Relating
to
Women and Children**



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 158

November, 1970

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OF THE
COLORADO GENERAL ASSEMBLY

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* * * * *

The Legislative Council, which is composed of five Senators, six Representatives, and the presiding officers of the two houses, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

LABOR LAWS RELATING TO
WOMEN AND CHILDREN

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 158
November, 1970

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REP. CLARENCE QUINLAN

LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
892-2285
AREA CODE 303

November 20, 1970

To Members of the Forty-eighth Colorado General Assembly:

In accordance with the provisions of House Joint Resolution No. 1034, 1969 Session, the Legislative Council submits the accompanying report relating to child and women labor laws.

The report of the Committee appointed to carry out this study was accepted by the Legislative Council for transmission with favorable recommendation for consideration by the first regular session of the Forty-eighth Colorado General Assembly.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

CPL/mp

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REP. CLARENCE QUINLAN

November 20, 1970

Representative C. P. (Doc) Lamb
Chairman
Colorado Legislative Council
Room 46, State Capitol
Denver, Colorado 80203

Dear Mr. Chairman:

Pursuant to House Joint Resolution No. 1034, 1969 Session, the Interim Committee on Child and Women's Labor Laws submits the following report for consideration by the Legislative Council. The Committee's findings and recommendations are the result of seven meetings during which the Committee considered the problems concerning child and women's labor. In particular, the Committee recommends enactment of a recodification of the Colorado Child Labor Law and the repeal of certain statutes which discriminate against the employment of women.

Respectfully submitted,

/s/ Representative Clarence Quinlan
Chairman
Committee on Child and Women's
Labor Laws

CQ/mp

FOREWORD

House Joint Resolution No. 1034, 1969 Session, directed the Legislative Council to appoint a committee to study the "... existing laws concerning wages and conditions of employment of children within this state for the purpose of updating and unifying said laws." Members of the General Assembly appointed to the interim Committee on Child and Women's Labor Laws included:

Rep. Clarence Quinlan,
Chairman
Rep. Ben Klein, Vice-
Chairman
Rep. Jean Bain
Rep. John Byerly
Rep. Betty Dittimore
Rep. Don Friedman
Rep. Wayne Knox

Rep. C. P. (Doc) Lamb,
Ex Officio Chairman
of Legislative Council
Rep. Richard Lamm
Rep. Walter Younglund
Sen. Roger Cisneros
Sen. William Garnsey
Sen. Ruth Stockton

To implement the intent of the study, the first year of Committee activity was devoted to a review of Colorado child labor laws. In 1969, the Committee adopted a resolution which requested the Legislative Council to authorize expansion of the study to include consideration of women labor laws. The resolution was approved by the Legislative Council.

Following public hearings, the Committee held three meetings on a recodification of the Colorado Child Labor Law. The Committee attempted to remove overly protective restrictions from the statutes which hamper youth employment opportunities. At the same time, the Committee retained present Colorado educational requirements and the emphasis on safety training.

The Committee held a hearing on women's labor laws on September 25, 1970. The Committee recommends a repeal of certain provisions of the statutes which tend to discriminate against the employment of women.

The Committee wishes to express its appreciation to the many persons who testified during Committee hearings. In particular, the Committee thanks the following individuals for their help and cooperation: Commissioners, Albert Mangan and Kenneth C. Russell, Colorado Industrial Commission; Richard McCabe, Richard E. Moss, and James Underwood, Colorado Department of Labor and Employment; C. G. Fitzpatrick, United States Department of Labor, Wage, Hour, and Public Contracts Division; Richard Carlton, Executive Secretary, Colorado-Wyoming Restaurant Association; Declan O'Donnell, Mrs. Robert Dorcas, and Mrs. W. M. Henderson, Governor's Commission on the Status of Women; Charles Arnoldy, W. Clem Sevcik,

and Russell Waterman, Youth Opportunity Center, Colorado Department of Labor and Employment. Others assisting the Committee included: Colorado Contractors Association; Project Concern, Inc.; Association of Commerce and Industry; Colorado Labor Council; Colorado Cattlemen's Association; Colorado Grange; Colorado State University; Youth Program, Denver Opportunity; Denver Public Schools, Cooperative Education; State Board for Community Colleges and Occupational Education; Office of Work-Training Programs, City and County of Denver; Metropolitan Council for Community Services; Department of Administration; Metro-Denver Committee on Household Employment; Youth Coalition; National Organization of Women; American Association for Women; and Young Women's Christian Association.

Becky Lenahan of the Legislative Drafting Office provided bill drafting services to the Committee. Primary staff responsibility was performed by Mitchel Beville, Research Associate, and assisted by Lenny Arnold, Research Assistant, Legislative Council Staff.

November 1970

Lyle C. Kyle
Director

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COMMITTEE FINDINGS AND RECOMMENDATIONS

Pursuant to House Joint Resolution No. 1034, 1969 Session, and as later expanded upon by the Legislative Council, the Committee on Child and Women's Labor Laws conducted a two-year study of labor legislation affecting women and children. The Committee initiated the study by holding three public hearings reviewing child labor legislation and taking testimony from members of the general public, employers' organizations, Colorado Industrial Commission, Colorado Division of Labor, Colorado Division of Employment, federal poverty programs, federal work-training programs, vocational education, several community organizations, Colorado Labor Council, and United States Department of Labor.

Child Labor

In the early years of industrialization in the United States, children as young as eight years of age were employed in factories for periods up to fourteen hours per day. Needless to say, the long working hours, coupled with unsafe working conditions, endangered the health and welfare of many youngsters, as well as contributing to the neglect of their education. As a result, the first child labor legislation restricted children from working in the factories or "sweat shops". Later, child labor legislation was aimed at preventing abuses in occupations other than manufacturing such as mining, mill work, logging, quarrying, and canneries. Nevertheless, exploitation of children

continued in some other occupations, consequently, child labor legislation was extended to local industries such as retail stores, laundries, bakeries, restaurants, bowling alleys, and garages.

The Committee recognizes that the exploitation of youth must still be prevented; however, evidence presented to the Committee indicates that many provisions of Colorado's Child Labor Law unduly restrict the safe and socially beneficial employment of minors. Long working hours are not permitted, and there is a state law requiring compulsory school attendance. In addition, working conditions are far different today than they were in the early 1900's. For most large employers, work opportunities for persons under 18 are almost nonexistent, compared to the early years of industrialization. Consequently, the most serious problem for youth today is not exploitation but lack of opportunity. Overly restrictive and protective child labor laws, as they have evolved, are in conflict with state and federal programs of vocational education, work training, and youth job placement. Furthermore, the complexity and the restrictiveness of existing child labor laws has tended to discourage employers from providing work opportunities for young people. For these reasons, the Committee believes that a change in the purpose of child labor legislation is essential.

Problems Posed by Colorado's Child Labor Law

Examples of child labor legislation which are too restrictive were revealed in testimony at the Committee's hearings.

Colorado law at the present time provides that all persons under eighteen are minors and, therefore, subject to occupational limitations as specified by law. 1/ The law presently prevents these people from obtaining jobs which require more than eight hours of work a day and also prohibits employment in certain occupations such as roofing, logging, woodworking machines, rendering and packing of meat, etc. 2/ The Committee believes that persons who have graduated from high school, primarily seventeen-year-olds and persons who have dropped out of school but could pass the general education development examination, should have adult employment opportunities. If such individuals were permitted employment, the job placement efforts of the Youth Opportunity Center, Colorado Division of Employment, would be enhanced.

Job Placement - Following Training. In 1969, the General Assembly attempted to alleviate some of the conflict between vocational education programs and the Colorado Child Labor Law. Senate Bill No. 54 provides that persons under eighteen who have completed training or who are enrolled in specified types of student learning may be allowed employment in some occupations declared "hazardous". 3/ Unfortunately, this exemption does not apply to all federally-funded and approved training programs, especially those programs dealing with the disadvantaged. For example, Colorado Youth Opportunity Center personnel testified

1/ Section 80-6-1, C.R.S. 1963.

2/ Section 80-6-6 (2) and 80-6-5 (1), C.R.S. 1963.

3/ Colorado Session Laws of 1969, p. 664.

that they could not place some persons completing job training with the United States Job Corps. In particular, youngsters receiving heavy equipment training cannot be employed until age eighteen. The Committee believes that the Child Labor Law should be amended to encourage the employment of properly trained youngsters rather than to hinder such opportunities. Furthermore, a seventeen-year-old with proper training in a so-called "hazardous occupation" may be a far safer employee than an untrained adult.

Encouragement of Employment Opportunities. A prevailing attitude on the part of many employers is to forgo the hiring of youth. Although this outlook may stem, in part, from negative personal experiences or from the commentary of associates, public policy also is a key factor in discouraging the employment of youngsters. Federal and state laws and regulations have been drafted in a negative fashion with emphasis on what an employer or minor cannot do. The Committee believes an effort needs to be made to make such laws and regulations reflect a positive approach. In particular, as a youngster matures, adult employment opportunities should be made available as soon as the health, safety, and education of a child permits such activity.

Specifically, the Committee recommends the inclusion of an intent section in the law encouraging employment. The law should also be amended to emphasize the types of employment appropriate for youth and require the Colorado Industrial Commission to specify training, procedures, and equipment which would render some "hazardous" occupations safe for youth employment.

Uniformity with Federal Law Curtails Work Opportunity.

Employment opportunities in Colorado often are governed by federal law and regulations. At the present time, the Colorado Child Labor Law is in conformity, for the most part, with federal child labor law. Federal officials testified at the hearings that departure from uniformity would create general confusion and enforcement difficulties. Nevertheless, the Committee is convinced that the Colorado law should differ in certain aspects from federal law. Specifically, the Committee has decided to allow fourteen-year-olds the following occupational opportunities (unless specifically declared to be hazardous):

- (1) any occupation in manufacturing;
- (2) public messenger service, and errands by foot, bicycle, and public transportation;
- (3) warehousing and storage, including unloading and loading of vehicles;
- (4) construction and repair work;
- (5) operation of automatic enclosed freight and passenger elevators; and
- (6) the use of hoists, where supervised, in connection with occupations in gasoline service establishments.

The above occupations are prohibited to fourteen and fifteen-year-olds by federal regulations for employment involved in interstate commerce.

The Committee does not believe that all manufacturing oc-

cupations should be prohibited to fourteen and fifteen-year-olds. Such a blanket prohibition eliminates a large number of jobs for youth. The Committee believes that labor and work conditions have changed enough from the early 1900's to warrant a relaxation of this restriction. Also, the Committee can see no reason why fourteen-year-olds cannot perform public messenger service.

In a sense, the Committee is suggesting that Colorado law could be used as a model or pilot project to determine whether modification of existing restrictive provisions could be accomplished without exploitation of children. The federal child labor provisions consist of the Fair Labor Standards Act and regulations adopted pursuant to this act by the Secretary of Labor. For the most part, federal restrictions on child labor are contained in regulations. Therefore, modification of federal standards could be accomplished by the Secretary of Labor. If the appended bill is adopted by the General Assembly, and if the policies and approaches contained within the bill can accomplish the goal of providing opportunity without jeopardizing the health and welfare of youth, perhaps some of the federal regulations may be changed.

Miscellaneous. The present law provides some confusion and administrative and procedural difficulties. For example, a "work permit" is necessary for 14 and 15 year olds who wish to work during school hours on school days. The provision is designed to maintain compliance with the compulsory school attendance law. Despite the fact that only a few "work permits" are

issued in Colorado in any one year, many parents, employers, minors and school officials have assumed that all minors need "work permits". Thus, employers may be discouraged from hiring some minors because they believe a "work permit" is "necessary". The Committee recommends changing the terminology of "work permit" to "school release permit".

The law provides that an employer may require a minor to submit an age certificate. The employer retains such age certificates for inspection by the Division of Labor. The purpose of an age certificate is to enable the employer and the Division of Labor to determine whether an employer is in compliance with the law. In the past, the employer has been required to return the age certificate upon termination of employment by the minor. This will no longer be required since the Committee believes that employers should be relieved of as many administrative functions as possible. Hopefully, this will help remove some of the "red tape" employers complain about.

Summary of Legislative Recommendations

The Committee suggests that Colorado's Child Labor Law, 80-6-1 to 80-6-13, C.R.S. 1963, as amended, be repealed and re-enacted. Major revisions proposed in the Committee bill include:

(1) The "Colorado Child Labor Law" would be renamed the "Colorado Youth Employment Opportunity Act". A declaration of purpose section has been added which declares that it is state policy to foster youth employment opportunities. The Committee believes that the suggested title and the declaration of purpose will foster a positive attitude for youth employment.

(2) Enable persons who have completed high school to be entitled to adult employment opportunities. Also, the Committee recognizes that a person who has dropped out of school should be able to make a living and gain valuable work experience. Therefore, the Committee recommends that persons who have dropped out of school and who have passed the general educational development examination should not be denied employment opportunities because of arbitrary age requirements.

(3) Continued recognition that youth mature in steps and therefore, the Committee supports existing procedures of permitting different kinds of employment at ages 14 and 16, but with some occupations open to all ages.

(4) The inclusion in the article of federally-funded work training programs. This will qualify such programs for exemptions from "hazardous occupations".

(5) The extension of the concept that an adequately trained youth is capable of working in occupations which would be hazardous for untrained persons. The Committee has applied this concept to all occupations which are hazardous.

(6) The addition of several sections which should clear up ambiguities which have existed in the past, e.g., inclusion of a provision on workmen's compensation.

(7) The addition of provisions which will require the Colorado Industrial Commission to define hazardous occupations and prescribe what equipment shall be required to make an occupation non-hazardous for minors.

Finally, the Committee believes that it is important that information about child labor provisions be transmitted to the public, and it therefore recommends that the Colorado Industrial Commission and the Division of Labor provide adequate informational services to ensure public awareness.

Women's Labor Laws

The Committee requested the Legislative Drafting Office to employ its Data Retrieval System to obtain a print-out of laws that affect women. ^{1/} The print-out contains 281 references to various statutes referring to women and was valuable in determining what laws the Committee should focus on. The Committee also held a public hearing on September 25, 1970, devoted to testimony from representatives of women's groups and individuals concerned with discrimination in employment on the basis of sex.

One of the issues that confronted the Committee as far as women's labor legislation is concerned is whether Colorado's statutes affecting the employment of women are so "unduly" protective that employment discrimination against women has developed. By using the Data Retrieval System, the Committee was able to locate one direct prohibition against the employment of women, a statute which makes it unlawful for women to work in

^{1/} By using the four "search words" of "women," "woman," "girl," and "female," a print-out of Colorado Revised Statutes was obtained. The print-out is on file in the Legislative Drafting Office.

mines. 2/ In addition, there are other statutes in Colorado which require special facilities for women. Illustrations of this type of legislation are: (1) a statute which requires that if women are to be employed in factories, the stairs shall be screened (Section 80-2-8, C.R.S. 1963); (2) a law requiring that if women are employed in any manufacturing, mechanical or mercantile establishments in Colorado, employers shall provide "suitable seats" for the use of women when not engaged in their "active duties" (Section 80-2-13, C.R.S. 1963); (3) a statute requiring certain employers of more than four persons to provide a separate "water closet," "earth closet," or "privy," whenever men and women are employed together (Section 80-2-10, C.R.S. 1963); and a provision requiring the Colorado Industrial Commission to stipulate that separate "dressing rooms" should be provided for women in certain instances (Section 80-2-10 (2), C.R.S. 1963).

The Committee believes that the prohibition against employment of women in mines is without justification and is totally discriminatory, because no consideration is given to individual capacities of potential employees. In addition, the aforementioned laws requiring special facilities for women should be repealed. On the whole, however, the Committee found that Colorado does not have some of the types of archaic "protective" legislation contained in the statutes of many other states, e.g.,

2/ Section 92-10-2, C.R.S. 1963.

Colorado does not have legislation specifying weight lifting restrictions for women in their employment. Finally, the Committee did not have adequate time to devote to a study of the "Eight-hour-day Law" and the "Minimum Wage Law for Women and Children."

TEXT

EXPLANATION

A BILL FOR AN ACT
CONCERNING THE EMPLOYMENT OF MINORS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 6 of chapter 80, Colorado Revised Statutes 1963, as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 6

COLORADO YOUTH EMPLOYMENT OPPORTUNITY ACT

80-6-1. Short title. This article shall be known and may be cited as the "Colorado Youth Employment Opportunity Act of 1971".

80-6-2. Declaration of purpose. It is declared to be the policy of this state to foster the economic, social, and educational development of young people through employment. Work is an integral factor in providing a sense of purpose, direction, and self-esteem, necessary to the overall physical and mental health of an individual. In the first part of this century, state and federal laws and regulations were needed to prevent the exploitation of

The Committee believes that the Colorado Child Labor Law should be renamed and that a positive statement about the necessity and social values obtained from youth work experience should be included in the statutes.

TEXT

child labor. Unfortunately, such legislation also has tended, on occasion, to limit and curtail opportunities for minors to participate in reasonable work experiences. Young people, especially those who have completed high school or occupational training and no longer are in school, should not be denied employment opportunities because of arbitrary minimum age limits. Furthermore, with adequate training, the general assembly believes that youth are less injury and accident prone than an untrained adult.

80-6-3. Definitions. (1) For purposes of this article:

(2) "Commission" means the industrial commission of Colorado.

(3) "Division" means the division of labor in the department of labor and employment, and "director" means the director of the division of labor.

(4) "Minor" means any person under the age of eighteen, except a person who has received a high school diploma or a passing score on the general educational development examination. The state board of education shall adminis-

EXPLANATION

Most of the definitions included in this section are the same as current law. However, the definition of "minor" was changed to allow a person under eighteen, who has either a high school diploma or received a passing score on the general educational development examination, adult employment opportunities. Youth employment specialists testified that the suggested language would increase their ability to place youths in jobs. Also, if a high school diploma would permit adult employment opportunities, perhaps this would be an incentive for young people to stay in school. The Committee believes that employment opportunities must be expanded for persons who can no longer derive benefit from regular classroom attendance. At the same time, the Committee recognizes the value of education and ef-

TEXT

ter the general educational development examination to any minor sixteen years of age or older who wishes to be considered an adult for the purpose of this article.

(5) "School day" means any day when normal classes are in session during the regular school year in the school district.

(6) "School hours" means that period during which the student is expected to be in school in the school district.

(7) "Employment" means any occupation engaged in for compensation in money or other valuable consideration, whether paid to the minor or to some other person, including, but not limited to, occupation as a servant, agent, subagent, or independent contractor.

80-6-4. Exemptions. (1) (a) The provisions of this article, except section 80-6-9, shall not apply to the following:

- (b) School work; supervised educational activities.
- (c) Home chores.

EXPLANATION

forts must be made to keep minors in school.

Similar to present law.

TEXT

(d) Work done for a parent or guardian, except where the parent or guardian receives any payment therefor.

(e) Newsboys and newspaper carriers.

(2) Any minor employed as an actor, model, or performer shall be exempt from the provisions of subsection (1) of section 80-6-5.

(3) The director may grant exemptions from any provision of this article for an individual minor if he finds that such an exemption would be in the best interests of the minor involved. In granting exemptions, the director shall consider, among other things, the training which the minor has received in his proposed occupation and his knowledge of the proper safety measures to be taken in connection with such occupation. The director may require any applicant for an exemption from section 80-6-9 to submit to a test of his ability to perform the skills required for the proposed occupation. Such tests may be administered by a community and technical college, a proprietary school, or any other institution which offers courses in the skills required, which courses are approved

EXPLANATION

The present statute gives authority to the director of the Division of Labor to grant waivers to the provisions of the child labor act. The Committee believes that occupational and safety training need to be emphasized as a condition for any such waiver. The Committee believes that this provision might be helpful in providing employment opportunities to youths who have received adequate training. The type of exemptions provided in section 80-6-9 are for persons who have received training by apprenticeship, or through various types of training programs conducted by public schools, junior colleges, community and technical colleges, federally funded work-training programs, or proprietary schools approved by the State Board for Community Colleges and Occupational Education.

TEXT

by the state board for community colleges and occupational education.

(4) Any employer, minor, minor's parent or guardian, school official, or youth employment specialist may request an exemption, as provided in subsection (3) of this section, from a provision of this article.

80-6-5. Minimum age requirements - maximum hours of work. (1) No minor under the age of fourteen shall be permitted employment in this state except as authorized by sections 80-6-4 and 80-6-6.

(2) On school days, during school hours, no minor under the age of sixteen shall be permitted employment unless he is excused from attendance at school pursuant to this article.

(3) No minor under the age of sixteen shall be permitted to work between the hours of nine-thirty p.m. and five a.m., except as authorized by section 80-6-4 (2), nor shall he be permitted to work more than four hours on a school day unless he is excused from attendance at school pursuant to this article or unless the next day is

EXPLANATION

This section is based on the present law. The Committee recommends two changes which should add some flexibility in a minor's working hours. One change would permit a youth to work more than four hours on a school day provided that the next day is not a school day. This would permit minors, for example, to work more than four hours on a Friday. Otherwise, employment during school days would remain the same. Secondly, the Committee suggests that when school is not in session, minors may be employed more than eight hours in a day, provided they are paid overtime and they do not work more than forty-eight hours per week. The Committee hopes that this would encourage summer employment in certain occupations, such as the restaurant business, where employment hours sometimes have to be flexible.

TEXT

not a school day. Babysitters shall not be subject to the provisions of this subsection (3).

(4) No minor shall be permitted to work more than six consecutive days except in seasonal employment, or more than forty-eight hours in any week, or more than eight hours in any twenty hour period. In case of emergencies which may arise in the conduct of an industry or occupation, not subject to a wage order promulgated under article 7 of this chapter, a minor may be permitted to work more than eight hours in a twenty hour period if he is paid at a rate of one and one-half times his normal wage, but the limitations of this subsection (3) on consecutive days of employment and on hours in any week shall be applicable in such emergencies. Overtime in any industry subject to a wage order promulgated under article 7 of this chapter shall be governed by such order.

80-6-6. Permissible occupations at any age. (1) (a) Subject to the limitations of sections 80-6-5 and 80-6-9, any minor, shall be permitted employment in any of the following occupations:

EXPLANATION

This section is substantially different from current law. First, the occupations listed may be engaged in by any minor regardless of his age rather than at age 12 as provided by the current law.

TEXT

(b) Sale and delivery of periodicals, delivery of handbills, advertising, and advertising samples, and door to door selling of merchandise and the delivery thereof.

(c) Shoeshining.

(d) Babysitting.

(e) Gardening, and care of lawns, including the operation of power-driven lawn equipment if such type of equipment is approved by the division or if the minor has received training conducted or approved by the division in the operation of the equipment.

(f) Cleaning of walks including the operation of power-driven snow removal equipment.

(g) Casual work usual to the home of the employer, and not specifically prohibited by this article.

(h) Agricultural work.

(i) Caddying.

(j) Any other occupation which is similar to those enumerated in this subsection (1) and is not specifically prohibited by this article.

EXPLANATION

Section 80-6-4, C.R.S. 1963, prohibits persons under sixteen from operating any "hazardous power-driven machinery". The Colorado Industrial Commission and the director of the Division of Labor have interpreted "hazardous power-driven machinery" to include power-driven lawn mowers. At the urging of the Committee, the director of the Division of Labor made some changes in this interpretation in the summer of 1970. The Division of Labor decided that if a youth is operating equipment which has been approved by the Division or if the minor has received training in the operation of the equipment, then the minor will be permitted to operate power lawn mowers. The Division next established, in cooperation with vocational education officials, several training sessions to instruct youth in the operation of power equipment. The training sessions will be conducted each summer. Paragraphs (e) and (f) of subsection (1) incorporate this authority in the statutes.

The Committee faced a dilemma in making its decision on power-driven lawn equipment. First, it was alleged that there are 150,000 accidents each year from power lawn mowers. Testimony also revealed that many young people mow lawns in direct violation of the law. The Committee believes that young people are in jeopardy of violating a law that is not consistent with reality. Many youngsters with power mowers are mowing lawns and appear to be doing so quite safely. Nevertheless, the Committee believes that safety would be ensured by re-

TEXT

EXPLANATION

80-6-7. Permissible occupations at age fourteen.

(1) (a) In addition to the occupations permitted by section 80-6-6, and subject to the limitations of sections 80-6-5 and 80-6-9, any minor, fourteen years of age or older, shall be permitted employment in any of the following occupations:

(b) Any occupation in manufacturing.

(c) Public messenger service, and errands by foot, bicycle, and public transportation.

(d) Operation of automatic enclosed freight and

quiring a certain amount of experience on the part of the youth in the operation of power-driven lawn equipment.

The Committee also had difficulty in resolving an age issue, i.e., at what age can a youth operate a power lawn mower safely? The Committee looked at several alternative ages, but determined that a differentiation of operation capabilities between ages 11 and 12 could not be ascertained. The Committee decided to exclude any age requirement for the types of occupations allowed under this section. This, of course, would allow agricultural employment at any age. Most agriculture is involved in interstate commerce and subject to federal regulations with respect to child labor.

Several provisions of this section would not be in conformity with the present federal regulations since the permissible age at which the occupations could be filled has been lowered from 16 to 14 in the proposal. The Committee is not attempting to encourage youth to work unnecessarily, but the Committee believes that the age should be lowered in order to allow the opportunity for fourteen-year-olds to be employed if qualified and necessary.

The occupations which would not be uniform with federal law include:

(1) any occupation in manufacturing;

(2) public messenger service, and errands by foot, bicycle, and public transportation;

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passenger elevators.

(e) Janitorial and custodial service, including the operation of vacuum cleaners and floor waxers.

(f) Office work and clerical work, including the operation of office equipment.

(g) Warehousing and storage, including unloading and loading of vehicles.

(h) Construction and repair work. The operation of motor vehicles shall be subject to article 4 of chapter 13, C.R.S. 1963.

(i) Any occupation in retail food service.

(j) Any occupation in gasoline service establishments including but not limited to, dispensing gasoline, oil, and other consumer items; courtesy service; car cleaning, washing, and polishing; the use of hoists where supervised; and changing tires, except that no minor may inflate or change tires on any tire mounted on a rim equipped with a removable retaining ring. The operation of motor vehicles shall be subject to article 4 of chapter 13, C.R.S. 1963.

EXPLANATION

(3) warehousing and storage -- including unloading and loading of vehicles;

(4) construction and repair work;

(5) operation of automatic enclosed freight and passenger elevators; and

(6) the use of hoists, where supervised, in connection with occupations in gasoline service establishments.

Federal government officials testified that a departure from uniformity would make administration of both federal and Colorado child labor provisions difficult and confusing. The Committee believes, however, that work experiences should be encouraged at an earlier age. If this approach is successful, perhaps Congress and the Secretary of Labor could re-examine federal child labor policies.

The Committee heard testimony from vocational education specialists that it is important that youths obtain work experience as early as possible. The self-confidence, good work habits, and other valuable social and personal skills that can develop from work experience have a more permanent effect on an individual at age 14 than they do at age 16. The lowering of the age for the occupations in this section may be particularly helpful to the individual development of minority children because such youth often suffer a lack of self-confidence and self-esteem.

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(k) Any occupation in retail stores including cashiering, selling, modeling, art work, work in advertising departments, window trimming, price marking by hand or machine, assembling orders, packing and shelving, or bagging and carrying out customers' orders.

(l) Any occupation in restaurants, hotels, motels, or other public accommodations, except the operation of power food slicers and grinders.

(m) Any occupation related to parks or recreation including but not limited to recreation aides and conservation projects.

(n) Any other occupation which is similar to those enumerated in this subsection (l) and is not specifically prohibited by this article.

80-6-8. Permissible occupations at age sixteen. In addition to the occupations permitted by sections 80-6-6 and 80-6-7, and subject to the limitations of sections 80-6-5 and 80-6-9, any minor, sixteen years of age or older, shall be permitted employment in any occupation which involves the use of a motor vehicle, if the minor is

The Committee did not attempt to revise present practices in regard to the licensing of minors for the operation of motor vehicles. The proposal simply permits such occupations provided the minor qualifies under the vehicle laws of the state.

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licensed to operate the motor vehicle for such purpose pursuant to article 4 of chapter 13, C.R.S. 1963.

80-6-9. Hazardous occupations prohibited for minors.

(1) (a) No minor shall be permitted employment in any occupation declared to be hazardous in subsection (2) of this section, unless such minor is fourteen years of age or older and he is employed:

(b). Incidental to or upon completion of a program of apprentice training;

(c) Incidental to or upon completion of a student-learner program of occupational education under the auspices of a public school, junior college, community and technical college, federally funded work-training programs, or proprietary school approved by the state board for community colleges and occupational education.

(d) Upon completion of any other program of training approved by the state board for community colleges and occupational education; or

(e) Upon completion of a program of occupational education conducted outside this state which the director

EXPLANATION

The goal of the Committee in recommending this language is to emphasize training and development of skills as a condition to safe employment.

This section expands upon Senate Bill 54 which was passed during the 1969 session. Senate Bill 54 stated that a minor may be employed in certain hazardous occupations provided the employment is incidental to or upon completion of a student learner program of occupational education conducted under the auspices of a public school, junior college, or community or technical college, or of a proprietary school approved by the State Board of Community Colleges and Occupational Education. The Committee suggests allowing a greater number of vocational programs to qualify as adequate training. For example, a representative of the Office of Work-Training Programs, City and County of Denver, requested that federally funded work-training programs be specifically included in this bill. This would alleviate any doubts as to whether certain federal programs would qualify for the exemptions.

Other changes were made in the provisions of subsection (2) defining hazardous occupations. For example, the Committee decided that the operation of high temperature water boilers should be defined as hazardous for those persons who have not had adequate training.

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determines offers instructional quality and content comparable to that offered in programs certified by the state board for community colleges and occupational education.

(2) (a) The following occupations are declared to be hazardous:

(b) Operation of any high pressure steam boiler, or high temperature water boiler.

(c) Work which primarily involves the risk of falling from any elevated place located ten feet or more above the ground.

(d) Manufacturing, transporting, or storing of explosives.

(e) Mining, logging, oil drilling, or quarrying.

(f) Any occupation involving exposure to radioactive substances or ionizing radiation.

(g) Operation of the following power-driven machinery: woodworking machines, metal forming machines, punching or shearing machines, bakery machines, paper products machines, shears, and automatic pin-setting machines, and

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EXPLANATION

any other power-driven machinery which the commission determines to be hazardous.

(h) Slaughter of livestock, and rendering and packaging of meat.

(i) Occupations directly involved in the manufacture of brick or other clay construction products or of silica refractory products.

(j) Wrecking or demolition, but not including manual auto wrecking.

(k) Roofing.

(l) Occupations in excavation operations.

(3) The commission shall promulgate regulations, in accordance with section 3-16-2, C.R.S. 1963, to define the occupations prohibited under this section and to prescribe what types of equipment shall be required to make an occupation non-hazardous for minors.

80-6-10. Age certificates. (1) Any employer desiring proof of the age of any minor employee or prospective employee may require the minor to submit an age certificate. Upon request of a minor, an age certificate shall

Subsection (3) requires the Industrial Commission to define prohibited occupations and to prescribe what equipment is required to make an occupation non-hazardous for minors.

Section 80-6-10 provides that an employer may require proof of age of any minor employee or prospective employee. The proposal would require an employer to keep an age certificate on file for the duration of a minor's employment. All age certificates would have to be available for inspection.

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be issued by or under the authority of the school superintendent of the district or county in which the applicant resides. The superintendents, principals, or headmasters of independent or parochial schools shall issue age certificates to minors who attend such schools.

(2) The age certificate shall show the age of the minor, the date of his birth, the date of issuance of the certificate, the name and position of the issuing officer, the name, address, and description of the minor, and what evidence was accepted as proof of age. The age certificate shall also show the school hours applicable and shall state that a separate school release permit is required for minors under sixteen to work on regular school days during such school hours. It shall be signed by the issuing officer and by the minor in his presence.

(3) An age certificate shall not be issued unless the minor's birth certificate or a photocopy or extract thereof is exhibited to the issuing officer, or unless such evidence was previously examined by the school authorities and the information is shown on the school records. If a

EXPLANATION

Basically, the section is the same as current law, except that an employer does not have to keep a record of what was accepted as proof of age; this information will be on the certificate.

TEXT

birth certificate is not available, other documentary evidence such as a baptismal certificate or a passport may be accepted. If such evidence is not available, the parent or guardian shall appear with the minor and shall make an oath before the judge or other officer of the juvenile or county court as to the age of the minor.

(4) The employer shall keep an age certificate received by him for the duration of the minor's employment and shall keep on file all age certificates where they may be readily examined by an agent of the division of labor. Upon termination of employment, and upon request, the certificate shall be returned to the minor.

80-6-11. Proof of a high school diploma, a passing score on the general educational development examination, or completion of a vocational education program. Any employer may require proof of a high school diploma, a passing score on the general educational development examination, or completion of a vocational education program. The employer shall be required to maintain a record of such high school diploma, proof of a passing score on the

EXPLANATION

This is a new section which provides that an employer may require proof of a high school diploma, a passing score on the general educational development examination, or completion of a vocational education program. The employer is also required to maintain a record of the proof. The committee believes that this section would enable an employer to determine whether he is in compliance with the provisions of 80-6-2 (4), and 80-6-9 (1) (c), (d), and (e) of the proposed bill.

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general educational development examination, or completion of a vocational education program.

80-6-12. School release permit. (1) (a) Any minor fourteen or fifteen years of age who wishes to work on school days during school hours shall first secure a school release permit. The permit shall be issued only by the school district superintendent, his agent, or some other person designated by the board of education. The school release permit shall be issued only for a specific position with a designated employer. The permit shall be cancelled upon the termination of such employment and shall be issued only in the following circumstances:

(b) If the minor is to be employed in an occupation not prohibited by section 80-6-9 and as evidence thereof presents a signed statement from his prospective employer; and

(c) If the parent or guardian of the minor consents to the employment; and

(d) If the issuing officer believes the best interests of the minor will be served by permitting him to work.

EXPLANATION

The present statutes would be revised in several respects. First, the term "work permit" is changed to "school release permit". Some people believe a "work permit" is necessary for all minors who desire to work. This is not the case. The permit simply authorizes absence from school. A school release permit would be issued only for a specific job with a specific employer. In addition, upon termination of employment, the permit would be automatically voided. A provision was included allowing the issuing officer to cancel a school release permit, if the issuing officer believes it would be in the best interest of the minor to do so. In other words, the issuing officer should have the authority to cancel a school release permit if the original reasons for issuing the permit change or cease to exist. A fourth change requires that the "hours of exemption" be shown on the school release permit.

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(2) The school release permit shall show the name, address, and description of the minor, the name, and address of the employer, the kind of work to be performed, the hours of exemption, and shall also require the signature of the parent and the minor in the presence of the issuing officer.

(3) If it appears desirable and practical for the minor to attend school part-time and work part-time, the school release permit shall be issued with this limitation.

(4) If the issuing officer is in doubt about whether the proposed employment is in accordance with this article, he shall consult with the division before issuing the permit.

(5) Upon termination for any reason of the employment authorized, the employer shall return the school release permit directly to the issuing officer with a notation showing the date of termination.

(6) The issuing officer is authorized to cancel a school release permit, if the issuing officer determines

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that such action would be in the best interest of the minor. If a school release permit is cancelled, for reasons other than the termination of employment for which the permit was granted, the minor shall be entitled to a review of the cancellation by the court having jurisdiction of juvenile matters in the county in which the minor resides, in accordance with the procedures established by section 80-6-13.

80-6-13. Appeal from the denial or cancellation of a school release permit. (1) If a minor is refused a school release permit or has had a school release permit cancelled, for reasons other than the termination of employment for which the permit was granted, he shall be entitled to review by the court having jurisdiction of juvenile matters in the county in which the minor resides, in accordance with the procedures described in this section.

(2) The official who refused to issue or cancelled the school release permit shall, upon demand made within five days after the refusal or cancellation, promptly

EXPLANATION

This section is substantially the same as present law except that "work permit" has been changed to "school release permit". A provision has been made for judicial review of a school release permit cancellation.

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furnish the minor and his parent or guardian with a written statement of the reasons for such refusal or cancellation.

(3) Within five days after the receipt of such statement, the minor and his parent or guardian may petition the court for an order directing the issuance or re-issuance of a school release permit. The petition shall state the reasons why the court should issue such an order, and the petitioner shall attach to such petition the statement of the issuing officer obtained as provided in subsection (2) of this section.

(4) The court shall hold a hearing and receive such further testimony and evidence as it deems necessary. If the court finds that the issuance or re-issuance of a permit would be in the best interests of the minor, it shall grant the petition.

(5) No fee shall be charged by the court in such proceedings.

80-6-14. Director of the division of labor - powers and duties - industrial commission - rules and regulations.

(1) The director shall enforce the provisions of this article.

EXPLANATION

This section is basically the same as current law except that "written notice" of violation prior to the issuance of a "cease and desist" order to an employer is provided. This change was incorporated

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(2) The director shall take the necessary steps to inform employers, school authorities, and the general public regarding the provisions of this article, and he shall work with other public and private agencies to minimize the obstacles to legitimate employment of minors.

(3) The director shall receive and investigate complaints and may from time to time visit employers at reasonable times and inspect pertinent records to determine compliance with this article.

(4) If investigation of any place of employment or complaint discloses a violation of this article, the director shall give the employer written notice describing the violation and specifying the provisions of this article which such employer is allegedly violating. Within ten days of receipt of such notice of violation, the employer may file a written request for a hearing on the issue of whether such violation exists, which hearing shall be conducted in accordance with section 3-16-4, C.R.S. 1963. After a hearing concerning a violation of

into the proposed bill in order to provide the employer due process.

In subsection (7), the Industrial Commission is required to specifically define the occupations and equipment permitted or prohibited by the article.

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this article, or after the expiration of twenty days after the issuance of a notice of violation during which the employer has neither requested a hearing nor ceased the conduct which constitutes the alleged violation, the director may issue a final order requiring the employer to cease and desist the conduct found to be in violation. At any time thereafter, the director may order the violating employer to pay a penalty of twenty dollars for each offense. Each day that the conduct constituting the violation is continued after the order is made final, and each minor employed in violation of this article, constitutes a separate offense. The order imposing the penalty shall become final upon issuance and the penalty shall be due and payable thirty days after the order assessing the penalty is entered, unless prior to that time the order has been modified or a hearing on the penalty has been requested as provided by section 3-16-4, C.R.S. 1963. All penalties imposed by this section shall be collected as provided in section 80-1-46, C.R.S. 1963.

(5) The findings, orders, and penalties made by the

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director shall be subject to review by the industrial commission. Such findings, orders, and penalties of the commission shall be subject to judicial review pursuant to section 3-16-5, C.R.S. 1963.

(6) The director may apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act prohibited by this article.

(7) The commission, in accordance with section 3-16-2, C.R.S. 1963, shall promulgate rules and regulations more specifically defining the occupations and types of equipment permitted or prohibited by this article.

80-6-15. Violations - penalties. (1) Any person, having legal responsibility for a minor under the age of eighteen years, who knowingly permits such minor to be employed in violation of this article, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars, for each offense.

(2) Any person, firm, or corporation, or any agent, manager, superintendent, or foreman of any firm or corpo-

The Committee changed the age level in subsection (1) from sixteen to eighteen, because the Article applies to minors under eighteen. The rest of this section is current law.

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ration, who, by himself or through an agent, subagent, foreman, superintendent, or manager shall knowingly violate or knowingly fail to comply with any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars for each offense. Upon conviction of a second or subsequent offense, such person shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not longer than ninety days, or by both such fine and imprisonment.

80-6-16. Minors covered by workmen's compensation.

All minors, whether lawfully or unlawfully employed, shall be subject to the rights and remedies of "The Workmen's Compensation Act of Colorado", chapter 81, C.R.S. 1963, if the employer is included within the meaning of section 81-2-6, C.R.S. 1963.

EXPLANATION

This section of the child labor law is new. The language has been taken from the Workmen's Compensation Act. Although minors are presently included in the "Workmen's Compensation Act of Colorado," the Committee believes that this section should be included so that both the employer and the minor are aware of this fact.

STATE AND FEDERAL JURISDICTIONS - CHILD LABOR

Both federal and state governments regulate the employment of children. In many instances, jurisdiction applies to the same occupations or industries -- manufacturing, warehousing and storage, retail, construction, etc. For example, a large motel complex grossing \$250,000 or more per year is subject to federal child labor regulations, while a smaller neighboring motel is governed by state law. The "rule of thumb" that most employers are guided by is whether their activity involves interstate commerce. Federal restrictions apply to those industries engaged in interstate commerce. 1/ State law takes precedence, however, for all employment in which state law is more restrictive than federal standards.

Children Covered by Federal Law. Children may be covered individually by federal law if they engage in interstate commerce or produce goods for interstate commerce. A teenager who operates a switchboard (handling a telephone) for a small hotel would be governed by federal law even though other youngsters working in the hotel would be exempt from federal regulation. Children who are employed in an occupation which is directly involved in interstate commerce also would be covered by federal law. This would include occupations in the telephone, telegraph, radio, television, importing, exporting, and transportation industries; employees in distributing industries, such as wholesaling, workers who handle goods moving in interstate or foreign communications. In addition, children engaged in producing, shipping, or receiving goods in interstate commerce would be governed by federal law.

Children involved in an activity which is indirectly related to interstate commerce may also come under federal jurisdiction. A hypothetical example may help to illustrate this situation:

A Colorado cement contractor employs one person (a youth) and obtains all his materials, i.e., his concrete, etc., from Colorado. He usually constructs foundations for Colorado homes.

1/ Section 212, Title 29, United States Code Annotated provides that:

No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce.

The minor employed by this person would, under these circumstances be governed by the Colorado Child Labor Law. However, if the employer took a job which required him to build a "loading dock" for an interstate shipper of goods, this particular job would be "affecting" interstate commerce and would be governed by federal regulations. If this construction contractor acquired two or more employees, he would be governed by federal law as an "enterprise" under regulations applying to contractors.

Another hypothetical example might be:

Six children work for a firm. Two of the youth help in the receiving and storing of certain goods from out of state (interstate commerce), two prepare orders for intrastate customers, (indirectly involved, but affecting interstate commerce, and thus covered by federal law), and two boys do maintenance and custodial work such as lawn care, etc. The last two boys are not covered by the federal law because their activity does not affect interstate commerce.

In conclusion, a determination has to be made whether a child is involved in interstate commerce, directly or indirectly.

Children Covered by Virtue of Fact They Work for An "Enterprise". The federal jurisdiction extends to children who work for an "enterprise" as defined by the Fair Labor Standards Act. It does not matter whether a particular youth is employed directly in interstate commerce or if a youth has an occupation which indirectly affects interstate commerce. If a youth is employed by an "enterprise" as defined by federal law and regulations, he is covered under federal law. An enterprise has been defined as an organization which employs two or more persons and meets any of the following criteria:

(1) any retail establishment or gasoline service establishment whose annual gross volume of sales is \$250,000 or more (exclusive of excise taxes at the retail level which are separately stated); 2/

2/ "Retail establishments" includes restaurants, hotels, motels, etc., as well as retail stores. For a more complete list see Appendix A.

(2) any business engaged in laundering, cleaning, or repairing clothing or fabrics (regardless of income);

(3) any organization engaged in the business of "construction or reconstruction," or both (regardless of income);

(4) any organization engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, the mentally ill, or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, an elementary or secondary school, or an institution of higher education (regardless of whether such hospital, etc., is public or private or operated for profit or non-profit, and regardless of income); or

(5) street, suburban or interurban electric railway, and local trolley or motor bus carriers, if the rates are regulated by a state or local agency (regardless of income). 3/

Thus, if a youth has a job involved in interstate commerce he is covered by federal law; if he works for an "enterprise" as defined above he is also in interstate commerce and therefore is governed by federal law.

An illustration using the example provided in the paragraph on Children Covered by Federal Law is helpful. For purposes of illustration, suppose that the firm employing six youths is an "enterprise" as defined by federal law, therefore all six boys would be governed by federal law whether or not they are individually involved in interstate commerce.

State Jurisdiction. As a practical matter most manufacturing, agricultural, construction, and reconstruction occupations are covered by federal law. Except for more restrictive provisions states do not have jurisdiction over any jobs defined as an enterprise. However, the states do have jurisdiction over many jobs in small retail establishments and gasoline service establishments (grossing less than \$250,000 per year) and where children are not individually engaged in interstate commerce; including many jobs in restaurants, hotels, motels, etc., which gross less than \$250,000 and where the youth is not individually involved in interstate commerce; and work which may be defined as "odd jobs", in residential areas such as lawn mowing, and washing windows.

3/ Section 203, Title 29, United States Code Annotated.

Finally, the states have jurisdiction over many businesses which are not defined as an enterprise; which are not directly involved in interstate commerce; and over jobs which do not affect either directly or indirectly interstate commerce. For example, there are many industries which do not fall under the definition of "retail establishment", e.g., banks. There may be some employment in banks and other occupations wherein a youth would not be individually covered.

It is interesting to note that the federal jurisdiction over child labor could be easily expanded. First, the economic test for a retail enterprise could be lowered from the present level of \$250,000 annual gross volume of sales made or business done. From February 1, 1967 to January 31, 1969, the economic test was \$500,000. Also the economic test for retail and gasoline establishments could be dropped entirely; making these establishments similar to laundering, etc., in which there is no economic test. ^{4/} Finally, the Congress could add other industries to the definition of "enterprise".

State Law May Apply if Standards are Higher than Federal Standards

Federal law provides that if a state child labor law has higher standards than the federal law, the state law may govern in those areas usually regulated by the federal government. ^{5/} The present Colorado child labor law was modeled on federal regulations in effect in 1962 and is therefore primarily uniform with federal regulations. However, Colorado does have one standard which is higher than the current federal regulations. The federal law contains a provision defining "any occupation involving exposure to radioactive substance or ionizing radiation" as a hazardous occupation for persons under 18. The Colorado law contains this provision but language was added to expand it to include any occupation involving exposure to "dangerous or poisonous acids, dyes, or gases." ^{6/}

Areas Regulated by the State, Which are Not Regulated by the Federal Government

Colorado law contains provisions which are not found in federal child labor regulations. For example, Colorado law pro-

- ^{4/} Section 203, Title 29, U.S.C.A.
- ^{5/} Section 218, Title 29, U.S.C.A.
- ^{6/} Section 80-6-5 (d), C.R.S. 1963.

hibits the employment of children under 16 in "any occupation in a place where intoxicating beverages are served". ^{7/} Federal regulations contain no such provision. In such instances, state law governs.

Summary of Colorado Child Labor Law

One of the principal characteristics of the present Colorado law is that part of the law is modeled after the current federal regulations governing child labor. Thus, many of the federal regulations have been adopted in state law, providing considerable uniformity. There are some aspects of child labor that are not provided by federal regulation, e.g., "age certificates," "work permits," etc., so a brief discussion of the state law is necessary.

Exemptions from the Colorado Child Labor Law. There are several classifications or types of occupations that are exempted from the Child Labor Law. Except for employment in "hazardous occupations", the provisions of the Child Labor Law do not apply to the following:

- (1) school work or supervised educational activities;
- (2) home chores and miscellaneous tasks undertaken as a contribution to the community;
- (3) work done for a parent or guardian, except where the parent or guardian receives any payment therefor;
- (4) newsboys and newspaper carriers; and
- (5) any minor employed as an actor, model, or performer is exempted from the provisions on hours and may work until 10:00 p.m. if the next day is not a school day. If the minor is employed in Colorado for less than 15 days in any 12 month period, the minor is exempt from the entire article except from the section stipulating hazardous occupations for persons under 16 (Section 80-6-4, C.R.S. 1963) and the section which defines hazardous occupations for persons under 18 (Section 80-6-5, C.R.S. 1963, as amended. ^{8/}

^{7/} Section 80-6-4 (f), C.R.S. 1963.

^{8/} Section 80-6-5, C.R.S. 1963.

In addition, agricultural work on a farm or ranch is exempted from "hazardous occupations" and there are some exemptions provided for youths who have training. This will be more fully discussed on page 32. The director of the Division of Labor is authorized to grant special exceptions to the act.

Statutory Provisions Concerning Age

The employment of minors younger than age 12 is prohibited in Colorado. Employment opportunities for minors are grouped under three age classifications: opportunities permitted for 12- and 13-year-olds; prohibited occupations for those 14 through 16; and a less restrictive list of prohibited occupations for those 17 and 18 years old.

Twelve Years of Age. Minors ("minors" are defined as all persons under 18) age 12 and over are permitted employment in any of the following occupations:

- (1) agricultural work;
- (2) sale and delivery of newspapers and periodicals, or the delivery of handbills, advertising, and the sale and delivery of articles of merchandise;
- (3) shoeshining;
- (4) babysitting; and
- (5) gardening, care of lawns, and cleaning of walks. 9/

(The purpose of this list is to outline those employment opportunities available to 12- and 13-year olds.)

Minors Under 16. Minors age 14 and 15 are not permitted employment in the following occupations or any category listed from prohibited employment for minors under 18 years of age:

- (1) any occupation in manufacturing;
- (2) operation of any steam boiler;
- (3) operation of any hazardous power-driven machinery;

- (4) work involving risk of falling from any elevated place; and
- (5) any occupation in a place where intoxicating beverages are served. 10/

These provisions are based upon federal regulations. Power-driven lawn machinery was interpreted to fall within the provision prohibiting the "operation of any hazardous power-driven machinery". Consequently, persons under 16 were prohibited by Colorado law from operating such equipment. However, in the summer of 1970, the Colorado Industrial Commission and the Director of the Division of Labor, at the urging of the Committee, decided to allow the operation of equipment which is safety approved if a youth attends a training session conducted by vocational education personnel in conjunction with the Division of Labor.

Minors Under 18. With a few exceptions, minors under 18 years of age, are not permitted employment in the following "hazardous" occupations:

- (1) manufacturing, transporting, or storing of explosives;
- (2) mining, logging, oil drilling, or quarrying;
- (3) any occupation involving exposure to radioactive substance or ionizing radiation, or to dangerous or poisonous acids, dyes, or gases;
- (4) operation of the following power-driven machinery: woodworking machines, hoisting apparatus, freight and passenger elevators, metal forming machines, punching or shearing machines, bakery machines, paper products machines, shears, and automatic pin-setting machines;
- (5) slaughter of cattle, calves, hogs, sheep, lambs, goats, or horses, and rendering and packing of meat;
- (6) occupations directly involved in the manufacture of brick or other clay construction products or of silica refractory products;

10/ Section 80-6-4, C.R.S. 1963.

(7) wrecking or demolition; and

(8) roofing. 11/

The law allows certain exemptions from the hazardous occupations. Unlike federal law, agricultural work on a farm or ranch is excluded from the aforementioned list of hazardous occupations. Secondly, the occupations are not prohibited if a minor is employed incidental to a program of apprentice training. Finally, as amended in 1969, the law allows exemptions in (4), (5), (6), and (8), of the above classifications of occupations if such employment is incidental to a student learner program of occupational education conducted under the auspices of a public school, junior college, or community and technical college, or of a proprietary school approved by the State Board of Community Colleges and Occupational Education. 12/

Hours of Work

During School. No minor, under 16, is permitted to work between 9:30 p.m. and 5:00 a.m. unless employed as an actor, model, or performer. In addition, no minor is allowed to work more than four hours on a school day unless he is excused from attendance at school pursuant to law. Federal regulations provide for a three hour limitation on school days. Babysitters are not subject to the hourly provisions.

Seasonal Employment. During seasonal employment, no minor under 18 is permitted to work more than six consecutive days, or more than 48 hours in any week, or more than eight hours in any 20 hour period. 13/

Administration of the Colorado Child Labor Law

Division of Labor, Colorado Department of Labor and Employment. The director of the Division of Labor (Colorado Department of Labor and Employment) administers the Colorado Child Labor Law. Among his powers and duties are:

- (1) the power to grant special exemptions from the article;

11/ Section 80-6-5, C.R.S. 1963.

12/ Section 80-6-5, C.R.S. 1963 (1969 Supp.).

13/ Section 80-6-6, C.R.S. 1963.

- (2) the duty to inform employers, school authorities, and the general public about Colorado child labor provisions; and
- (3) the duty to investigate child labor complaints and to conduct hearings on the complaints. 14/

The director may issue cease and desist orders against violators of the act.

The Colorado Industrial Commission. The Colorado Industrial Commission administered the child labor law until 1969 when the General Assembly transferred this function to the Division of Labor. Now, the Industrial Commission has the authority to promulgate the regulations more "specifically defining the occupations and equipment permitted or prohibited" by this article. 15/

In order to facilitate administration, "age certificates" and "work permits" provisions are included within the law.

Age Certificates. The act allows an employer to require that a youth present an age certificate to the employer. The purpose of the age certificate is to enable the employer and the Division of Labor to determine if employment of a particular youth is in compliance with the age and occupational restrictions of the law. The age certificate contains information as to the age and residence of the minor.

Age certificates are secured from the superintendent of a school district, or from the principal, superintendent, or headmaster of an independent or parochial school. The minor must present proof of his age to the issuing officer and must sign the certificate in his presence.

The employer is required to retain all age certificates received by him on file for the duration of the minor's employment. The age certificate must be available for inspection by an agent of the Division of Labor. The certificate must be returned to the minor at the termination of his employment. 16/

Work Permits. Although it is not required by law that a minor have an age certificate, minors 14 and 15 years of age must

14/ Section 80-6-6, C.R.S. 1963, and Section 80-6-6, C.R.S. 1963 (1969 Supp.).

15/ Section 80-6-11 (8), C.R.S. 1963 (1969 Supp.).

16/ Section 80-6-8, C.R.S. 1963.

have a "work permit" if they wish to work during school hours on school days. Work permits are not necessary for work study programs or cooperative education programs. Work permits are issued by the district school superintendent or by a person designated by the board of education, and only under certain conditions as prescribed by law. Upon termination of employment, the employer must return the work permit to the issuing officer with a notation showing the date of termination and the reasons for termination. 17/ Very few work permits are issued for the entire state each year, according to Division of Labor officials. Finally, there are provisions for appealing the refusal of a work permit. 18/

Federal Child Labor Standards

Federal law affecting child labor is provided for in three different acts of Congress: The Fair Labor Standards Act of 1938, as amended; the Walsh-Healy Public Contracts Act; and the Sugar Act of 1948. The Fair Labor Standards Act and regulations adopted pursuant to it represent the bulk of federal child labor legislation; however, a brief explanation of the other two acts may be helpful.

The Sugar Act of 1948

The Sugar Act of 1948 contains employment standards which producers engaged in the production and harvesting of sugar beets or sugarcane must comply with in order to obtain federal benefit payments. The provisions include a minimum age of 14 years for employment and a maximum eight-hour day for children between 14 and 16 years of age. The provisions do not apply to members of the immediate family of the owner or the owners of at least 40 percent of the crop. During school hours, the minimum age for employment is 16. 19/ Again, Colorado law permits agricultural employment at age 12.

17/ Section 80-6-9, C.R.S. 1963.

18/ Section 80-6-10, C.R.S. 1963.

19/ U.S., Department of Labor, Wage and Hour and Public Contracts Division, Agriculture and the Child Labor Requirements Under the Fair Labor Standards Act, as Amended in 1966, Child Labor Bulletin No. 102 (Revised), p. 7.

Walsh-Healy Public Contracts Act

The Walsh-Healy Public Contracts Act applies to manufacturers or dealers contracting to manufacture or to supply materials valued in excess of \$10,000 to the United States Government. As far as child labor provisions are concerned, the Act requires that no boy under 16 and no girl under 18 shall be employed in any work performed under such contracts. 20/

The Fair Labor Standards Act of 1938, as Amended

The Fair Labor Standards Act of 1938, as amended, provides the Secretary of Labor with the power to promulgate regulations on child labor. Briefly, the law provides that no employer shall engage in any "oppressive child labor" in commerce or in the production of goods for commerce. 21/ The Act gives the Secretary of Labor broad discretionary powers to define what is "oppressive child labor" for persons under 18. The Act allows the Secretary of Labor to list those occupations which are particularly hazardous or detrimental to health of minors. Except for mining and manufacturing, the Secretary may permit 14- and 15-year-olds to participate in occupations which do not interfere with their schooling or health and well-being. 22/ Thus the Secretary of Labor has broad discretionary power to promulgate child labor standards. A brief summary of the regulations follow.

Exemptions from the Federal Child Labor Provisions

The federal child labor law does not apply to:

- (1) children under 16 employed by their parents in agriculture or in non-agriculture occupations other than manufacturing, mining, or "hazardous occupations";
- (2) children under 16 employed by a person other than their parents in agriculture, if the occupation is not considered hazardous and employment is not during school hours;
- (3) children employed as actors or performers in motion picture, theatrical, radio, or television productions;

20/ Ibid.

21/ U.S., Department of Labor, Fair Labor Standards Act of 1938, as Amended, WHPC Publication 1167, November 1966, p. 13.

22/ Ibid., p. 20.

- (4) children delivering newspapers to the consumer; and
- (5) "homeworkers" engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens, including the harvesting of the evergreens.

In addition, the Secretary of Labor allows exemptions for certain occupations when a youth is participating in student-learner programs or vocational education training programs that have met his approval.

Hazardous Occupations for Persons Under 18

The Secretary of Labor lists 17 classes of non-agricultural occupations considered hazardous or detrimental to the health and well-being of 16 and 17 year old persons:

- (1) manufacturing or storing explosives or articles containing explosive components;
- (2) motor vehicle operation;
- (3) coal mines;
- (4) logging, sawmills, lath mills, shingle mills, or cooperage-stock mills;
- (5) operation of power-driven woodworking machines;
- (6) occupations involving exposure to radioactive substances and to ionizing radiation;
- (7) operation of elevators and other power-driven hoisting apparatus;
- (8) operation of power-driven metal forming, punching, and shearing machines;
- (9) mining, other than coal;
- (10) slaughtering, meat-packing or processing, or rendering;
- (11) operation of certain power-driven bakery machines;
- (12) operation of power-driven paper products machines.

- (13) manufacture of brick, tile, and kindred products;
- (14) operation of circular saws, band saws, and guillotine shears;
- (15) wrecking, demolition, and shipbreaking operations;
- (16) roofing; and
- (17) excavation operations. 23/

Employment of 14 and 15-Year-Old Minors is Limited

Federal Child Labor Regulation Number 3 limits the employment of 14 and 15-year-old minors to certain occupations under conditions which do not interfere with their schooling, health, or well-being. A 14 or 15-year-old may not be employed:

- (1) during school hours, unless in work-training programs conducted under the Economic Opportunity Act of 1964 and under specified conditions.
- (2) before 7 a.m. or after 7 p.m. (This does not apply from June 1 through Labor Day.);
- (3) during the school year --
 - (a) more than three hours a day -- on school days.
 - (b) more than 18 hours a week -- in school weeks.
- (4) when school is not in session --
 - (a) more than 8 hours a day
 - (b) more than 40 hours a week

23/ For a further elaboration of these regulations, see U.S. Department of Labor, Wage and Hour and Public Contracts Division, A Guide to Child Labor Provisions of the Fair Labor Standards Act, Child Labor Bulletin No. 101, Jan., 1969, pp. 9-26.

Occupations Prohibited to 14 and 15-Year-Olds. Fourteen and 15-year-olds may not be employed in certain occupations and in certain jobs within some occupations:

- (1) any manufacturing occupation;
- (2) any mining occupation;
- (3) processing occupations (except in a retail, food service, or gasoline service establishment in those specific occupations expressly permitted there in accordance with the foregoing hours);
- (4) occupations requiring the performance of any duties in workrooms or workplaces where goods are manufactured, mined, or otherwise processed (except to the extent expressly permitted in retail, office service, or gasoline service establishments in accordance with the foregoing hours);
- (5) public messenger service;
- (6) operation or tending of a hoisting apparatus or of any power-driven machinery (other than office machines and machines in retail, food service, and gasoline service establishments which are specified in the foregoing list as machines which such minors may operate in such establishments);
- (7) any occupations found and declared to be hazardous;
- (8) occupations in connection with --
 - (a) transportation of persons or property by rail, highway, air, water, pipeline, or other means;*
 - (b) warehousing and storage;*
 - (c) communications and public utilities;*

*Except office or sales work in connection with these occupations not performed on transportation media or at the actual construction site.

- (d) construction (including repair);*
- (9) any of the following occupations in retail food service, or gasoline service establishment:
 - (a) work performed in or about boiler or engine rooms;
 - (b) work in connection with maintenance or repair of the establishment, machines or equipment;
 - (c) outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes;
 - (d) cooking (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters) and baking;
 - (e) occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers;
 - (f) work in freezers and meat coolers and all work in preparation of meats for sale (except wrapping, sealing, labeling, weighing, pricing and stocking when performed in other areas);
 - (g) loading and unloading goods to and from trucks, railroad cars or conveyors; and
 - (h) all occupations in warehouses except office and clerical work.

Occupations in Which 14 and 15-Year-Olds May be Employed.
Fourteen and 15-year-old minors may be employed in any other occupation and in the following occupations in retail, food and gasoline service establishments:

- (1) office and clerical work (including operation of office machines);

*Ibid.

- (2) cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;
- (3) price marking and tagging by hand or by machine, assembling orders, packing and shelving;
- (4) bagging and carrying out customers orders;
- (5) errand and delivery work by foot, bicycle, and public transportation;
- (6) clean-up work, including the use of vacuum cleaners and floorwaxers, and maintenance of grounds, but not including the use of power-driven mowers or cutters;
- (7) kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as, but not limited to, dish washers, toasters, dumbwaiters, popcorn poppers, milk shake blenders, and coffee grinders;
- (8) work in connection with cars and trucks if confined to dispensing gasoline and oil;
courtesy service;
car cleaning, washing and polishing;
other occupations permitted by this section (this does not include work involving the use of pits, racks or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining rim); and
- (9) cleaning vegetables and fruit, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physically separate from areas where meat is prepared for sale and outside freezers or meat coolers. 24/

Hazardous Occupations in Agriculture

Occupations in agriculture which are prohibited for children under 16 are:

- (1) operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.
- (2) operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:
 - (i) corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;
 - (ii) feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or
 - (iii) power post-hole digger, power post driver, or nonwalking type rotary tiller.
- (3) operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines: trencher or earthmoving equipment; fork lift; potato combine; or power-driven circular, band, or chain saw.
- (4) working on a farm in a yard, pen, or stall occupied by a: bull, boar, or stud horse maintained for breeding purposes; or sow with suckling pigs, or cow with newborn calf (with umbilical cord present).
- (5) felling, bucking, skidding, loading, or unloading timber with butt diameter of more than 6 inches.
- (6) working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

- (7) driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.
- (8) working inside --
 - (i) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;
 - (ii) An upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;
 - (iii) A manure pit; or
 - (iv) A horizontal silo while operating a tractor for packing purposes.
- (9) Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label;
- (10) Handling or using a blasting agent, including but not limited to dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or
- (11) Transporting, transferring, or applying anhydrous ammonia. 25/

The agricultural regulations make provision for exemptions to be provided for student-learners who are taking vocational education courses. 26/

25/ Part 1500.71, Title 29 -- Labor, Federal Register, Vol. 35, No. 4, January 4, 1970, pp. 221-222.

26/ (See Part 1500, 72, Title 29 -- Labor, Federal Register, Vol. 35, No. 4, January 4, 1970, pp. 222-223.

Appendix A

THE FOLLOWING BUSINESSES ARE COVERED BY FEDERAL
CHILD LABOR REGULATIONS IF THEIR GROSS
VOLUME OF SALES EXCEEDS \$250,000

Antique Shops
Auto Courts
Automobile Dealers' Establishments
Automobile Laundries
Automobile Repair Shops

Barber Shops
Beauty Shops
Bicycle Shops
Billiard Parlors
Book Stores
Bowling Alleys
Butcher Shops

Cafeterias
Cemeteries
China, Glassware Stores
Cigar Stores
Clothing Stores
Coal Yards
Confectionery Stores
Crematories

Dance Halls
Delicatessen Stores
Department Stores
Drapery Stores
Dress-suit Rental Establishments
Drug Stores
Dry Goods Stores

Embalming Establishments

Farm Implement Dealers
Filling Stations
Floor Covering Stores
Florists
Funeral Homes
Fur Repair and Storage Shops
Fur Shops
Furniture Stores

Gift, Novelty and Souvenir Shops
Grocery Stores

Hardware Stores
Hoisery Shops
Hotels
Household Appliance Stores
Household Furniture Storage and Moving Establishments
Household Refrigerator Service and Repair Shops

Infants' Wear Shops

Jewelry Stores

Liquor Stores
Luggage Stores
Lumber Yards

Masseur Establishments
Millinery Shops
Musical Instrument Stores and Repair Shops

Newsstands

Paint Stores
Public Parking Lots
Photographic Supply and Camera Shops
Piano Tuning Establishments
Public Baths
Public Garages

Radio and Television Stores and Repair Shops
Recreational Camps
Reducing Establishments
Restaurants
Roadside Diners

Scalp-treatment Establishments
Shoe Repair Shops
Shoeshine Parlors
Sporting Goods Stores
Stationery Stores

Taxidermists
Theaters
Tourist Houses
Trailer Camps

Undertakers

Valet Shops
Variety Shops

Watch, Clock and Jewelry
Repair Establishments

SOURCE: Federal Register, Vol. 35, No. 69 -- Thursday, April
9, 1970